PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

the application of:

Attorney Docket No.: 43163.325.0

Adams et al.

RECEIVED

Application No.:

09/834,332

MAR 2 4 2004

Examiner: Unknown

Filed:

MAR 2 2 2004

April 13, 2001

OFFICE OF PETITIONS

Group Art Unit: 3736

For:

PIEZOELECTRIC FILM TRANSDUCER

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)

Mail Stop Issue Fee Office of Petitions Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions for withdrawal of the holding of abandonment in the above-identified application on the grounds that (1) a Response to the Notice to File Missing Parts was timely and properly mailed, and (2) a Petition to Withdraw Holding of Abandonment was timely and properly mailed. On September 3, 2002, a Notice of Abandonment was mailed stating that Applicant failed to timely or properly reply to the Notice to File Missing Parts mailed on June 5, 2001. Applicant respectfully requests reconsideration based on the facts outlined below.

1. A Reply to the Notice to File Missing Parts was timely and properly mailed.

A Notice to File Missing Parts was mailed on June 5, 2001 explaining that the oath or declaration was missing and a properly signed oath or declaration in compliance with 37 CFR 1.63 identifying the application by the above application number and filing date as well as a late filing fee or oath or declaration surcharge as set forth in 27 CFR 1.16(e) must be submitted to

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avoid abandonment of the application. A shortened statutory period of two months from the mailing date of the Notice was set for reply. On November 5, 2001, Applicant filed a Petition for Extension of Time requesting a three-month extension for filing of the Response to File Missing Parts accompanied by a check of \$460.00 as well as authorization to charge our Deposit Account No. 061910 any fees necessary. Applicant received a postcard stamped December 6, 2001 indicating receipt of the November 5, 2001 submission but also indicating that a check in the amount of \$460.00 was not received. However, the November 5, 2001 submission included explicit authorization to charge our deposit account any fees necessary to enter the submission and our deposit account was in fact charged in the amount of \$460.00 on December 11, 2001.

On November 14, 2001, it was realized that the Response had not been included in the November 5, 2001 submission. Thus, on November 14, 2001, Applicant filed a new Petition for Extension of Time requesting a four-month extension of time for filing of the Response to File Missing Parts accompanied by a check for \$260.00 (the difference between the three-month extension fee of \$460.00 already paid by the applicant in the November 5, 2001 submission and the four-month extension fee of \$720.00 required for the November 14, 2001 submission) and authorization to charge any fees required to our Deposit Account No. 061910. Included in the November 14, 2001 submission was a Response to Notice to File Missing Parts including a Declaration and Power of Attorney for each inventor. Applicant received a postcard stamped December 27, 2001 indicating receipt of the November 14, 2001 submission.

2. A Petition to Withdraw Holding of Abandonment for Failure to reply to Notice to File Missing Parts was timely and properly mailed.

On September 3, 2002, a Notice of Abandonment was mailed stating that Applicant failed to timely or properly reply to the Notice to File Missing Parts mailed on June 5, 2001. On

October 2, 2002, a Petition to Withdraw Holding of Abandonment for Failure to reply to a Notice to File Missing Parts was filed accompanied by a check in the amount of \$130. Applicant received a postcard stamped October 2, 2002 indicating receipt of the Petition. Applicant has recently contacted the PTO and learned that no records of the Petition can currently be found.

Enclosed is a copy of the docket record for the above-identified case showing the submission of the Response to the Notice to File Missing Parts dated November 14, 2001 and also showing the submission of the Petition to Withdraw Holding of Abandonment dated October 2, 2002. Also enclosed is a copy of our Deposit Account Statement for December 2001 showing a charge in the amount of \$460.00 for U.S. Application Number 09/834,332. Please note that attorney docket number 43163.345 rather than the correct number 43163.325 is listed in connection with this charge. While an error was made with respect to the correct attorney docket number, the Deposit Account Statement clearly shows that the §460.00 charge was for the correct U.S. Application Number 09/834,332. Finally enclosed are copies of the November 5, 2001, November 14, 2001, and October 2, 2002 submissions as well as copies of the postcards date stamped by the PTO indicating receipt of each of these submissions.

In light of the information provided above, Applicant respectfully requests and petitions for the holding of Abandonment to be withdrawn and for the application to be reinstated and any outstanding fees required to be charged to our Deposit Account No. 061910. A check in the amount of \$130.00 is enclosed to cover the fees for the present Petition. If any additional fees are required for this Petition or to reinstate the above application, they may be charged to our Deposit Account No. 061910.

Respectfully submitted,

Majalie D. Kadewitch

Natalie D. Kadievitch Registration No. 34,196

Customer No. 22859 Fredrikson & Byron, P.A. 4000 Pillsbury Center 200 South Sixth Street Minneapolis, MN 55402-1425 USA

Telephone: (612) 492-7000 Facsimile: (612) 492-7077

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on:

March 17, 2004

Date of Deposit

Stacy Bickel

Stacy Bickel

#2925787\1

RECEIVED PTO/SB/21 (08-0 +MAR 2 4 2004 se type a plus sign (+) inside this box Approved for use through 10/31/2002. OMB 0651-0031 OFFICE OF PETTIONS emark Office: U.S. DEPARTMENT OF COMMERCE Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. 09/834,332 **Application Number** April 13, 2001 Filing Date **TRANSMITTAL** Adams et al. First Named Inventor **FORM** 3736 Group Art Unit (to be used for all correspondence after initial filing) Unknown Examiner Name 43163.325 Total Number of Pages in This Submission Attorney Docket No.

| | ENCLOSURES (check all that app | |
|---|--|--|
| Fee Transmittal Form Fee Attached Amendment/Reply After Final Affidavits/declaration(s) Extension of Time Request Express Abandonment Request Information Disclosure Statement Certified Copy of Priority Document(s) Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53 Interview Summary | Assignment Papers (for an application) Drawing(s) Licensing-related Papers Petition Petition to Convert to a Provisional Application Power of Attorney, Revocation Change of Correspondence Address Terminal Disclaimer Request for Refund CD, Number of CD(s) Remarks: | ☐ After Allowance Communication to Group ☐ Appeal Communication to Board of Appeals and Interferences ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) ☐ Proprietary Information ☐ Status Letter ☒ Other Enclosure(s) (please identify below) Return Receipt Postcard. Check A He amount of \$130. |
| SIGNA | TURE OF APPLICANT, ATTORNEY, OI | R AGENT |
| Firm or Individual Name Natalie D. Kac Fredrikson & 4000 Pillsbury Minneapolis, I | Byron, P.A. Center, 200 South Sixth Street | |
| Date March 17, 200 |)4 | |

| CERTIFICATE OF MAILING | | | | | | | |
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| | espondence is being deposited with the United S missioner for Patents, P.O. Box 1450, Alexand | | with sufficient postage as first class mail in a | n | | | |
| Typed or printed name | Stacy Bickel | | | | | | |
| Signature | Stacy Bickel | Date | March 17, 2004 | | | | |

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Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington. DC 20231. DO NO SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

Attorney Docket: 43163.325

Art Unit: 3736

OFFICE OF PETITIONS

MAR 2 4 2004

Application of:
Adams

Serial No.: 09/778,821

For:

IMPLANTABLE MIDDLE EAR ASSIST SYSTEM USING PIEZOELECTRICAL TRANSDUCER FILM

To:

Assistant Commissioner for Patents

Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on

11/14/01

ate

Signature: Theresa Russek

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filling a Notice of Missing Parts in the above identified application. The Notice to File Missing Parts of Nonprovisional Application mailed June 5, 2001, the shortened-statutory time period for response of which expired on August 5, 2001. Accordingly, an extension of time for four months (37 CFR 1.17(a)(4)) is required. The appropriate non-small-entity fee for an extension of time of four months is \$1440.00. Applicants claim small entity status. See 37 CFR 1.27. Therefore, the fee amount is reduced by one-half, and the resulting fee is \$720.00.

Applicants previously filed, on November 5, 2001, a Petition for Extension of Time Under 37 CFR 1.136(a) requesting an extension of time for three months (37 CFR 1.17(a)(3)). In that request, Applicants submitted a check in the amount of \$460.00. Applicants did not, at that time, file a Response to Missing Parts. The difference between the three-month extension fee already paid by applicant (\$460.00) and the four-month extension fee required for this submission (\$720.00) is \$260.00. Accordingly, a check in the amount of \$260.00 is included herewith.

The Commissioner is hereby authorized any additional fees required in connection with this submission to Deposit Account No. 061910. I submit that I am the attorney of record and

am an attorney under 37 CFR 1.34(a). If the Office has any questions or needs clarification of any additional facts, the undersigned would welcome a call at the number listed below.

Dated: 11/14/01

Respectfully submitted,

Alicia Griffin Mills

Reg. No. 46,933

FREDRIKSON & BYRON, P.A.

1100 International Centre

900 Second Avenue South

Minneapolis, MN 55402-3397

(612) 347-7182

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE RECEIVED

MAR 2 4 2004 In Re Application of: Adams Attorney Docket: 43163.325 OFFICE OF PETITIONS Art Unit: 3736 Serial No.: 09/778,821 For: IMPLANTABLE MIDDLE EAR **CERTIFICATE OF MAILING** ASSIST SYSTEM USING I hereby certify that this document is being deposited PIEZOELECTRICAL with the United States Postal Service as First Class Mail under 37 C.F.R. 1.8 and is addressed to the Assistant TRANSDUCER FILM Commissioner for Patents, Washington, D.C. 20231, on To: Assistant Commissioner for Patents Signature: Theresa Russek Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

This submission is filed in response to the Notice to File Missing Parts of Non-Provisional Application mailed June 5, 2001. That Notice set forth that the oath or declaration was missing and a properly signed oath or declaration in compliance with 37 CFR 1.63 was required. Additionally, a fee as set forth in 37 CFR 1.16(e) of \$65 was required.

Applicants previously filed, on November 5, 2001, a Petition for Extension of Time Under 37 CFR 1.136(a) requesting an extension of time for three months (37 CFR 1.17(a)(3)) to extend the period for filing a Notice of Missing Parts. Applicants did not, at that time, file a Response to Missing Parts.

Enclosed for filing in this application is the required "Declaration and Power of Attorney for Patent Application" and check in the amount of \$65.00 to cover the surcharge and filing fees. Also enclosed is a copy of the Notice to File Missing Parts, as required. Applicant is entitled to small entity status in accordance with 27 CFR 1.27.

The Commissioner is hereby authorized any additional fees required in connection with this submission to Deposit Account No. 061910. A duplicate copy of this submission is enclosed. If the Office has any questions or needs clarification of any additional facts, the undersigned would welcome a call at the number listed below.

Respectfully submitted,

Alicia Griffin Mills Reg. No. 46,933

Dated: 11/14/01

FREDRIKSON & BYRON, P.A.

1100 International Centre

900 Second Avenue South

Minneapolis, MN 55402-3397

(612) 347-7182

PTO/SB/22 (8-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

| F 20/ | | In re Application of | | ····· |
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| , o, - | | Kai Kroll, et al. | | |
| 2 2004 | • | Application Number | | Filed |
| | | 09/834,332 | | April 13, 2001 |
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| & TRADEMIN | | IMPLANTABLE MIDDI PIEZOELECTRICAL TR | E EAR ASSIST SYS | TEM USING |
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| ms is a reques | t under the provision | ns of 37 CFR 1.136(a) to extern | nd the period for fil | ing a |
| votice of iviissi | ng rans in the above | e identified application. | | |
| The requested e | xtension and approp | oriate non-small-entity fee are | as follows | |
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| ☐ Fou | r months (37 CFR 1 | 17(a)(4)) | | \$ |
| ☐ Fiv | e month (37 CFR 1. | 17(a)(5))- | | \$ |
| Applica | nt claims small enti | ty status. See 37 CFR 1.27. | Therefore, the fee | |
| amount | shown above is redi | uced by one-half, and the res | ulting fee is: \$460.0 | 00 |
| | in the amount of th | ' | | |
| | | rm PTO-2038 is attached. | . , | |
| applicat | mmissioner has alreation to a Deposit Acc | ady been authorized to charge count. | e fees in this | r. |
| The Co | nmissioner is hereb | y authorized to charge any fe | es which may be | RECEIV |
| requirec | l, or credit any over | payment, to Deposit Account | Number <u>06-1910</u> . | • |
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| ⊠ atto | rney or agent under | 37 CFR 1.34(a) | | • |
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The mail stamp of the U.S. Patent and Trademark Office, Box Missing Parts on this card acknowledges the filing on the date stamped of:

Petitic of Time Under 37 CFR 1.13(a) to Respond to Notice to File Missing Parts; check in the of 160.00 to cover three month extension fee; Return Receipt DEC O B SORY postcard.

Via First Class Mail

First Named Inventor: Kroll, et al. Patent Title: IMPLANTABLE MIDDLE EAR

ASSIST SYSTEM USING

PIEZOELECTRICAL TRANSDUCER

FILM

Date Mailed: November 5, 2001 Docket No.: 43163.325.0

Initials: AGM

RECEIVED MAR 2 4 2004 OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | Express Mail Label No. EV 160507000US | |
|---------|---|---------------------------------------|---|
| In re a | application of: Adams et al. |) Attorney Docket No: 43163.325 | |
| Serial | No.: 09/834,332 |) Examiner: Unknown) | |
| Filed: | October 12, 1999 |) Group Art Unit: Unknown | |
| For: | PIEZOELECTRIC FILM TRANSDUCER | RECEIVED | |
| То: | Assistant Commission C. D. | MAR 2 4 2004 | |
| | Assistant Commissioner for Patents Washington, D.C. 20231 | OFFICE OF PETITIONS | 5 |

PETITION TO WITHDRAW HOLDING OF ABANDONMENT REPLY TO NOVICE TO FILE MISSING PART MAILED

Applicant hereby petitions for withdrawal of the holding of abandonment in the present application on the basis that a reply to the Notice to File Missing Parts was timely and properly mailed. On September 3, 2002, a Notice of Abandonment was mailed stating that Applicant failed to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on June 5, 2001. Applicant respectfully requests reconsideration based on the facts outlined below.

The present application was filed April 13, 2001, accompanied by a preliminary amendment. A Notice to File Missing Parts was mailed on June 5, 2001 explaining that the oath or declaration was missing and a properly signed oath or declaration in compliance with 37 CFR 1.63 identifying the application by the above Application Number and Filing Date as well as a late filing fee or oath or declaration surcharge as set forth in 27 CFR 1.16(e) must be submitted to avoid abandonment of the application. A shortened statutory period of two months from the mailing date of the Notice was set for reply. On November 5, 2001, Applicants filed a Petition

for a three-month Extension of Time for filing of the Reply to File Missing Parts accompanied by a check of \$460.00 as well as authorization to charge our Deposit Account No. 061910 any fees necessary. Applicants received a postcard stamped December 6, 2001 indicating receipt of the November 5, 2001 submission but also indicating that a check in the amount of \$460.00 was not received. On November 14, 2001, it was realized that the Reply had not been mailed on November 5, 2001. Thus, on November 14, 2001, Applicants filed a new Petition for Extension of Time requesting an extension of time of four months accompanied by a check for \$260.00 (the difference between the three-month extension fee of \$460.00 already paid by the applicant and the four-month extension fee of \$720.00 required for the November 5, 2001 submission) and authorization to charge any fees required to our Deposit Account No. 061910. Included in the November 14, 2001 submission was a Response to Notice to File Missing Parts including a Declaration and Power of Attorney for each inventor. Applicants received a postcard stamped December 27, 2001 indicating receipt of the November 14, 2001 submission. While it appears that the November 5, 2001 and November 14, 2001 submissions were missing a check in the amount of \$460.00, each submission included explicit authorization to charge our deposit account any fees necessary to enter the submission.

Attached is a copy of the docket record for the above-identified case showing receipt of the Notice to File Missing Parts and Response date of November 14, 2001. Also included are the November 5, 2001 and the November 14, 2001 submissions as well as the postcards date stamped by the PTO indicating receipt of each of these submission.

In light of the information provided above, Applicant respectfully requests and petitions for the holding of Abandonment to be withdrawn and for the application to be reinstated and any outstanding fees required to be charged to our Deposit Account No. 061910. A check in the

amount of \$130.00 is enclosed to cover the fees for the present Petition. If any additional fees are required for this Petition or to reinstate the above application, they may be charged to our Deposit Account No. 061910.

Dated: 2007 2002

Respectfully submitted,

Alicia Griffin Mills

Reg. No. 46,933

FREDRIKSON & BYRON, P.A.

4000 Pillsbury Center

200 South Sixth Street

Minneapolis, MN 55402-1425

(612) 492-7182

CERTIFICATE OF EXPRESS MAIL

Express Mail Label No.: Date of Deposit:

EV 160507000US

2 October 2002

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Theresa Russek

Name of Person Making Deposit

Signature



United States Patent and Trademark Office

COMMISSIONER FOR PATENTS UNITED STATES PATENT AND TRADEMARK OFFICE WASHINGTON, D.C. 20231

www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE 43163.345 . (7)

09/834,332

Fredrikson & Byron, P.A. 1100 International Centre 900 Second Avenue South Minneapolis, MN 55402-3397

Response due:

Docketed

04/13/2001

Theodore P. Adams

CONFIRMATION NO. 2566

ABANDONMENT/TERMINATION

Date Mailed: 09/03/2002

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 06/05/2001.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the aboveidentified Notice; (3) the petition fee set forth in 37 CFR 1.17(!); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the aboveidentified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

A copy of this notice <u>MUST</u> be returned with the reply.

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MAR 2 4 2004

OFFICE OF PETITIONS

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SEP 1 0 2002

INTELLECTUAL PROPERTY DEPARTMENT

mer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

75-1592 912 154378 \$130.00 CHECK NO. UTHORIZED SIGNATURE DOLLARS \$_ VOID AFTER 120 DAYS 0/02/02 US BANK 303 NW Inird Sireet East Grand Forks, Min ONE HUNDRED THIRTY & NO/100 Assistant Commissioner for Patents 4000 Pillsbury Center, 200 South Sixth Street Minneapolis, MN 55402-1425 (612) 492-7000 Fredriks. TO THE ORDER OF PAY —

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1000 Pilishury Center, 200 South Sixth Street Minneapolis, MN 55402-1425 (612) 492-7000

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Invoice: 43163.0325 10/02/02 Amount:

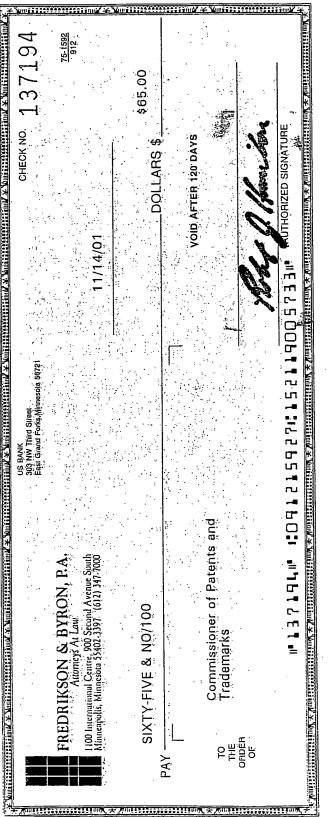
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MAR 2 4 2004

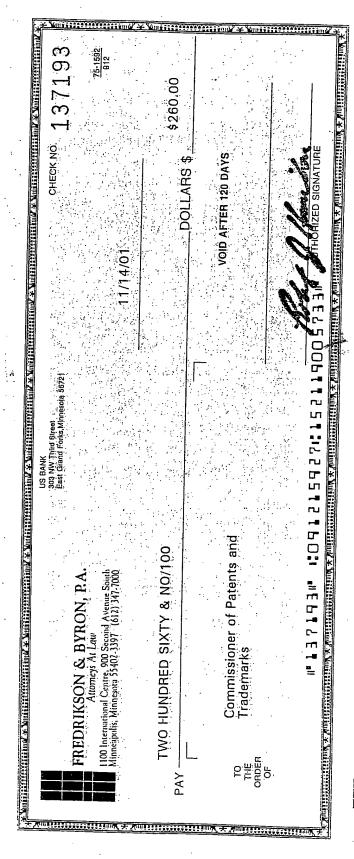
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Invoice: 43163.0325 11/14/01 Amount:

FREDRIKSON & BYRON, P.A.

Attoriess At Law
Hill Definitional Centre, 900 Second Avenue South
Minneapolis, Minnesolu 55402-3397 (612) 347-7000



FREDRIKSON & BYRON, P.A.

Attorneys At Law
H00 International Centre, 300 Second Avenue South
Minneapolis, Minnesota 55402-3397 (612) 347-7000

Invoice: 43163.0325 11/14/01 Amount:

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NO. 137193

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PLEASE REMOVE THIS REMITTANCE ADVICE BEFORE DEPOSITING

The mail stamp of the U.S. Patent and Trademark Office, Assistant Commissioner for Patents, on this card acknowledges the filing on the date stamped of:

Petition to Withdraw Holding of Abandonment Reply to Notice to File Missing Part Mailed (3 pgs.); copy of Notice of Abandonment Under 37 CFR 1.53 (f) or (g) as required (1 pg.); copy of docket report (1 pg.); Petition for Extension of Time mailed November 5, 2001 with copy of return receipt postcard stamped December 6, 2001; Petition for Extension of Time and Response to Notice to File Missing Parts mailed November 14, 2001, with copy of return receipt postcard stamped December 27, 2001; check in the amount of \$130.00 to cover the filing fee; Certificate of Express Mailing; and return receipt postcard. Via Express Mail

OCT 0 2 2002

First Named Inventor: Adams, et al.

Patent Title: Piezoelectric Film Transducer

Date Mailed: October 2, 2002

Docket No.: 43163.325.0

Initials: AGM

RECEIVED MAR 2 4 2004 OFFICE OF PETITIONS